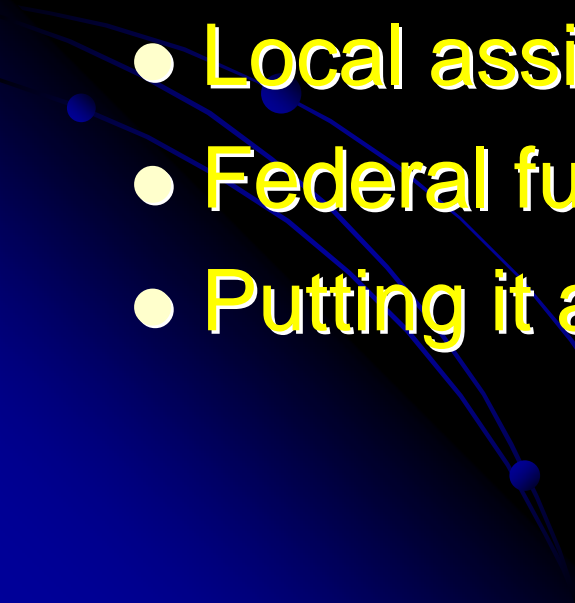


# **DROUGHT AND EMERGENCY SERVICES**



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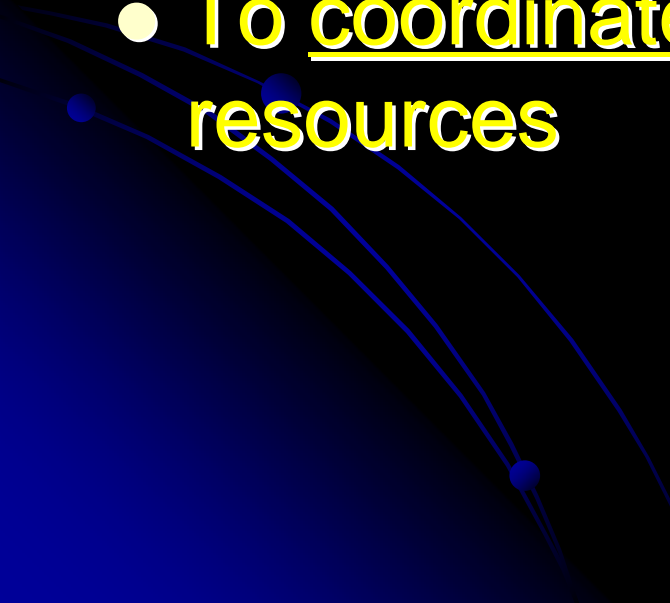
# Overview

- ESA
  - Proclamations
  - Extraordinary powers
  - ESA and the drought
  - Local assistance
  - Federal funding
  - Putting it all together, sort of
- 

# Emergency Services Act

- Governor may proclaim:
  - War emergencies
  - “State of Emergency”
  - Local emergency
- Enacted to mitigate effects of natural, man-made or war emergencies -- conditions of disaster resulting in extreme peril to life, property, or state’s resources.

# ESA's Purpose

- To protect and preserve health, safety, life, and property
  - To give the governor broad powers to deal with emergency
  - To coordinate local, state, and federal resources
- 

# “State of Emergency” – What is it?

- Govt. Code § 8558(b): “State of Emergency” means the duly proclaimed conditions of disaster or extreme peril to persons or property within the state caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought ... which, by reason of their magnitude are or are likely to be beyond the control of the services, personnel, equipment and facilities of any county, city and county or city and require the combined forces of a mutual aid region or regions to combat....”
- Nearly identical definition for local emergency

# Emergency Proclamation

- Three-pronged Test (GC 8558):
  - Facts must support a finding of *extreme peril* to persons or property caused by drought or other emergency conditions;
  - *Beyond control* of city or county; and
  - Requires combined forces of *mutual aid region* or regions *to combat*

# Proclamation and Termination

- ESA provisions usually initiated by local emergency declaration and request to governor
- Local request not a precondition
- State of emergency terminated by the governor or concurrent resolution of the legislature

# What a Proclamation Does

- Invokes mutual aid assistance from other cities, counties and state agencies
- Enables state to use extraordinary emergency powers authorized by the ESA
- State reimbursement on matching basis of certain local response costs
- Property tax relief
- Prerequisite to federal assistance

# The ESA also

- Requires planning and advance preparation, including State Emergency Plan
- Directs preparation of local plans
- These include:
  - continuity of government, mobilizing resources and equipment, training, test exercises, etc.

# Gov's Extraordinary Powers

- To mitigate conditions of emergency, governor may:
  - Adopt emergency regulations having the force of law
  - Suspend statutes and regulations where compliance hinders emergency mitigation
  - Direct state agencies to alleviate damage
  - Redirect appropriated funds
  - Commandeer persons or property

# Application to Drought

- Act intended to respond to sudden disasters
- Drought is slow and pernicious
- Act applies when disaster cannot be mitigated effectively under current laws and resources
- But 3-prong test for state of emergency must be met (GC 8558(b))

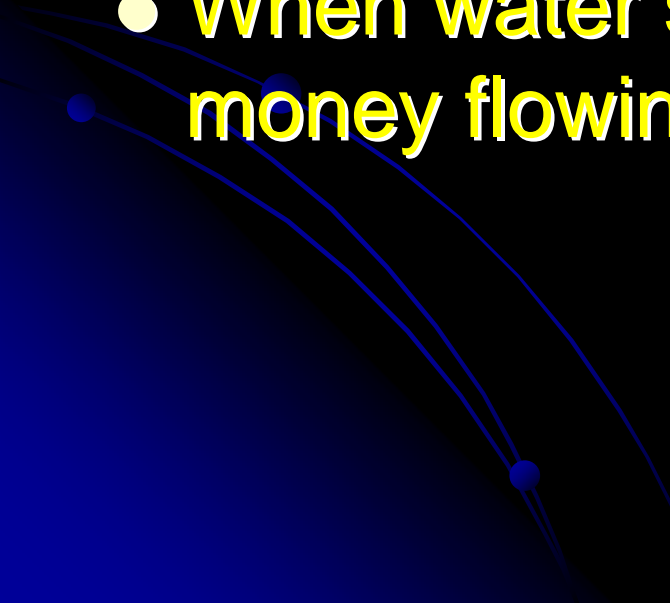
# Drought Proclamation Meet 3-Prong Test?

- Extreme peril to persons or property
- Beyond local control and
- Mutual aid region forces must combat
- Yes


# Current ESA Status

- June 4, 2008 – Executive Order S-06-08
- June 12, 2008 – Central Valley Region state of emergency proclamation (9 Co.)
  - DWR/DPH coordination efforts still in effect
- February 27, 2009 – A statewide emergency proclamation for drought
  - Expedite water transfers
  - Streamline permitting – no requests yet
  - UWS implement water shortage contingency analysis – DWR to offer workshops

# Local Emergency Assistance

- Just like politics, all emergencies are local  
... but with state support
  - When water stops flowing, how do you get money flowing?
- 

# Local Emergency Legal Overlay

- CA Disaster Assistance Act – locals
  - Water Code section 350 – public water suppliers
  - Federal Funds – USDA
- 

# CDAA and CalEMA

- CalEMA secretary administers and controls funds under CDAA
  - OES and OHS folded into CalEMA last year
- Coordinates emergency response among state agencies/mutual aid regions
- Secretary can declare emergency; governor later ratifies (GC 8588)

# CDAA

- State law that governs and defines local emergencies
  - Gov's declaration not required for local emergency declaration
- Regulations – 19 CCR 2900
  - Eligible costs – equipment, wages, cost share
  - Eligible work/projects for state assistance when governor has declared emergency

# CDAA

- To be eligible for CDAA disaster assistance locals must:
  - Declare local emergency (GC 8630)
  - Exhaust local resources
  - Get CalEMA concurrence letter
- Allocation made w/in 10 days of disaster
  - If local emergency declared and CalEMA sect'y approves it; or
  - Gov'r declared state of emergency and orders it

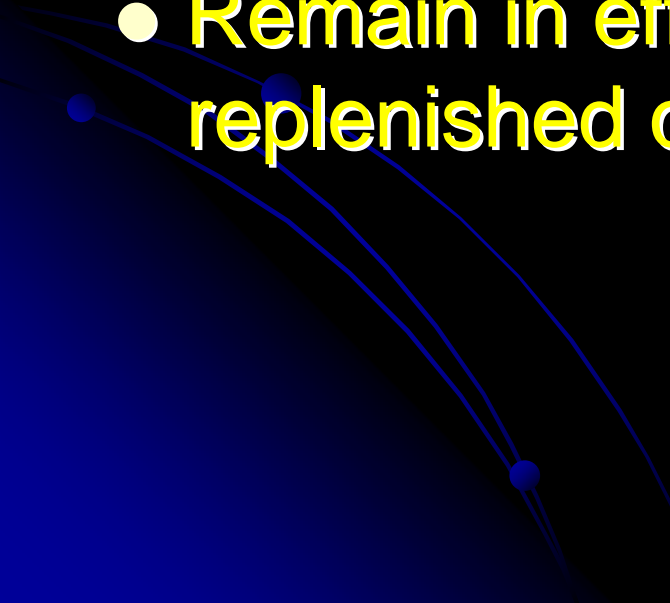
# CDAA – Money for what?

- Local agency personnel and equipment costs, and supplies and materials costs
- Facility costs – to repair, restore, reconstruct, or replace
- Matching funds for cost sharing that federal disaster assistance programs require
- Costs for FEMA-provided trailers

# Water Supplier Emergency Declaration (WC 350)

- Public water supplier (public/private owned) may declare drought emergency when:
  - Ordinary water demands would deplete supply
  - Insufficient water for *human consumption, sanitation and fire protection*
- Board adopts resolution after public hearing
  - 7 days notice required
  - Unless immediate emergency (dam, pump, pipe line or conduit failure)

# Regulations Required

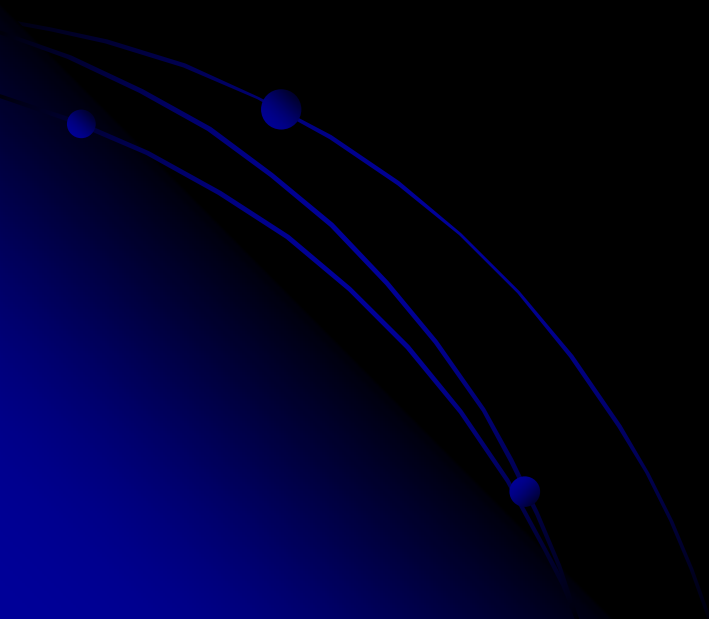
- To conserve the water supply for the greatest public benefit, i.e. domestic use, sanitation, and fire protection
  - Then establish priorities as agency sees fit
  - Remain in effect until water supply is replenished or augmented
- 

# Regulations Required (2)

- May deny applications for new or additional service connections
- May discontinue service for willful rules violations
- Regs prevail over any individual's existing water supply rights
  - Subject to court review
- May contract directly with Feds

# Federal Assistance in San Joaquin Valley CVP Service Area– ARRA

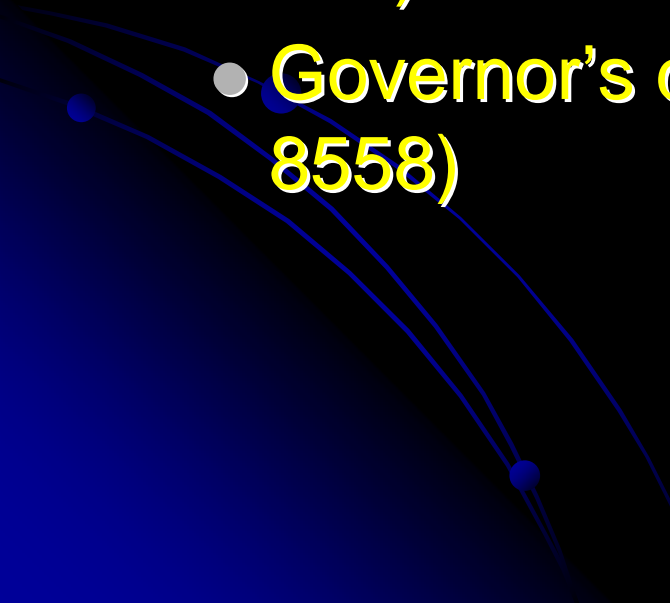
- Funds from ARRA
  - Sect'y Salazar visited Fresno last Sunday
  - “Want to direct” \$160 million to CVP, response to serious economic effects



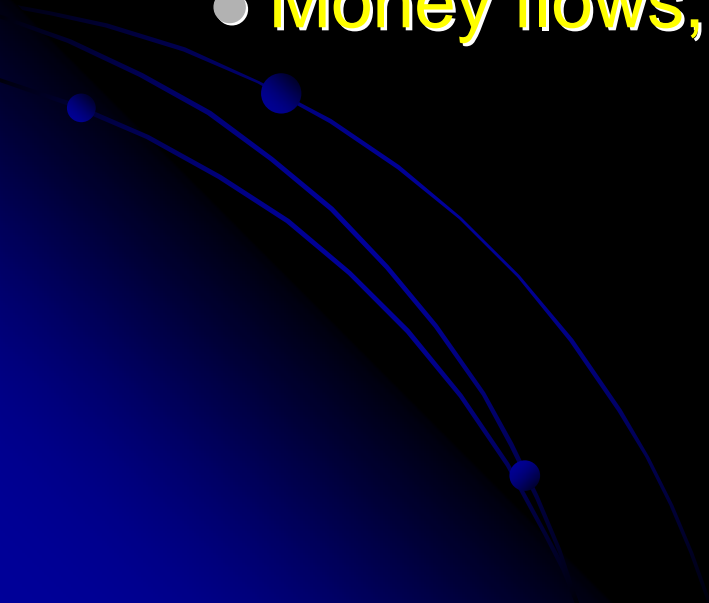
# Federal Funds – USDA

- USDA's Farm Services Agency administers farm loans for drought recovery
- President or Ag. Sect'y declares disaster area
- Requires a minimum 30-percent crop production loss or physical loss to livestock, livestock products, land, or property
- Most of CA is now under a USDA drought declaration (all but 3 counties)
- Very low bar to trigger aid

# Recap – Locals

- Applicable laws interrelated
    - Local agency declares emergency – CDAA (GC 8630)
    - Water distributor declares emergency (WC 350)
    - Governor's drought proclamation – ESA (GC 8558)
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# Recap – Locals (2)

- Declare emergency summary
    - Board adopts emergency declaration
    - May draft regulations
    - Get concurrence letter from CalEMA
    - Money flows, if water hasn't
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# Recap, still

- State

- CalEMA – governing emergency support agency
- Executive Order –no special powers invoked
- Proclamation – declaring drought emergency invokes big powers

- Federal

- ARRA – potential additional funds
- USDA declares emergency to assist farmers for crop losses